

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Mar 10, 2022

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOEL CHAVEZ-DURAN,

Defendant.

No. 4:21-CR-06028-MKD-3

ORDER FOLLOWING
ARRAIGNMENT ON SECOND
SUPERSEDING INDICTMENT

On Thursday, March 10, 2022, Defendant was arraigned on the Second Superseding Indictment (ECF No. 124). With Defendant's consent, Defendant appeared by video from the Spokane County Jail. Defendant was represented by court-appointed attorney Adam Pechtel and assisted by federal court-certified interpreter Natalia Rivera. Assistant United States Attorney Todd Swensen represented the United States.

Defendant was advised of and acknowledged Defendant's rights.

Defendant pled not guilty.

1 The Court appointed counsel to represent Defendant (ECF No. 4) and
2 addressed detention (ECF No. 15) in previous orders.

3 Defendant is bound over to Judge Mary K. Dimke for further proceedings.

4 The Court directs the parties to review the Local Criminal Rules governing
5 discovery and other issues in this case. [http://www.waed.uscourts.gov/court-](http://www.waed.uscourts.gov/court-info/local-rules-and-orders/general-orders)
6 [info/local-rules-and-orders/general-orders](http://www.waed.uscourts.gov/court-info/local-rules-and-orders/general-orders).

7 Under federal law, including Rule 5(f) of the Federal Rules of Criminal
8 Procedure, *Brady v. Maryland*, 373 U.S. 83 (1963), and all applicable decisions
9 from the Supreme Court and the Ninth Circuit interpreting *Brady*, the United States
10 has a continuing obligation to produce all information or evidence known to the
11 United States relating to guilt or punishment that might reasonably be considered
12 favorable to Defendant's case, even if the evidence is not admissible so long as it is
13 reasonably likely to lead to admissible evidence. *See United States v. Price*, 566
14 F.3d 900, 913 n.14 (9th Cir. 2009). Accordingly, the Court orders the United
15 States to produce to Defendant in a timely manner all such information or
16 evidence.

17 Information or evidence may be favorable to a defendant's case if it either
18 may help bolster the defendant's case or impeach a prosecutor's witness or other
19 government evidence. If doubt exists, it should be resolved in favor of Defendant
20 with full disclosure being made.

1 If the United States believes that a required disclosure would compromise
2 witness safety, victim rights, national security, a sensitive law-enforcement
3 technique, or any other substantial government interest, the United States may
4 apply to the Court for a modification of the requirements of this Disclosure Order,
5 which may include *in camera* review and/or withholding or subjecting to a
6 protective order all or part of the information.

7 This Disclosure Order is entered under Rule 5(f) and does not relieve any
8 party in this matter of any other discovery obligation. The consequences for
9 violating either this Disclosure Order or the United States' obligations under *Brady*
10 include, but are not limited to, the following: contempt, sanction, referral to a
11 disciplinary authority, adverse jury instruction, exclusion of evidence, and
12 dismissal of charges. Nothing in this Disclosure Order enlarges or diminishes the
13 United States' obligation to disclose information and evidence to a defendant under
14 *Brady*, as interpreted and applied under Supreme Court and Ninth Circuit
15 precedent. As the Supreme Court noted, "the government violates the
16 Constitution's Due Process Clause 'if it withholds evidence that is favorable to the

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1 defense and material to the defendant's guilt or punishment.'" *Turner v. United*
2 *States*, 137 S. Ct. 1885, 1888 (2017) (quoting *Smith v. Cain*, 565 U.S. 73, 75
3 (2012)).

4 DATED March 10, 2022.

5 s/James P. Hutton
6 JAMES P. HUTTON
7 UNITED STATES MAGISTRATE JUDGE
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